

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 21856 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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MANHARBA RAVUBHA GOHIL - Petitioner(s)**Versus****GUJARAT ELECTRICITY BOARD - Respondent(s)**

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Appearance :

MS SADHANA SAGAR for Petitioner(s) : 1, 1.2.1, 1.2.2,1.2.3 MR SM

CHUDASAMA for Petitioner(s) : 1,1.2.1

None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 24/11/2005****ORAL JUDGMENT**

1.In this petition under Article 226 of the Constitution
of India, the petitioners have prayed for an
appropriate writ, direction or order for getting
dropped the Special Civil Suit No.45/2004 filed by the

respondent authority G.E.B. filed in the Court of learned Civil Judge (S.D.), Bhavnagar. It appears from the record that the G.E.Board has filed Special Civil Suit No.45/2004 for the recovery of Rs.13,96,784/- as per the supplementary bill which came to be issued by the G.E.Board for mal-practice and/or theft of the electricity energy. It is the contention on behalf of the petitioners that the petitioners are not responsible and whatever done was done by their tenant with the help of the Chief Surveyor. It is required to be noted that when the Special Civil Suit is pending before the competent Civil Court, such a prayer in the present Special Civil Application cannot be granted and the only remedy lies with the petitioners is for moving an appropriate application before the Civil Court before which the aforesaid Special Civil Suit No. 45/2004 is pending.

2.Under the circumstances, there is no substance in the present special Civil Application and the same is required to be dismissed and is, accordingly, dismissed. At this stage, Ms. Sagar, learned advocate appearing on behalf of the petitioners requests to grant reasonable installments to pay the aforesaid

amount. Apart from the fact that there is no such prayer of the petitioner in the present Special Civil Application and it appears that there is no such request made by the petitioners before the G.E.Board. However, it will be open for the petitioners to request the G.E.Board for granting some installments which may be considered by the G.E.Board in accordance with law and on merits. It is, however, made clear that this Court has not expressed any opinion with regard to the merits of the case and it is, ultimately, for the G.E.Board to grant such installments.

3.For the reasons stated above, the present Special Civil Application is dismissed.

(M.R.SHAH, J.)

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